

**IN THE UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF TEXAS  
BROWNSVILLE DIVISION**

**CIVIL ACTION NO. CA B-02-154**

United States District Court  
Southern District of Texas  
FILED

DEC 08 2004

Michael N. Milby  
Clerk of Court

LUIS ALEJANDRO GARZA \*

\*

VS. \*

\*

\*

THE UNITED STATES OF AMERICA\*

**FIRST AMENDED MOTION TO PROCEED IN FORMA PAUPERIS AND  
REQUEST FOR ITEMS TO BE INCLUDED IN THE RECORD ON  
APPEAL**

TO THE HONORABLE OF SAID COURT:

1.

Plaintiff/Appellant filed his Notice of Appeal herein on November 24, 2004.

2.

Plaintiff/Appellant is indigent and moves the court for leave to proceed on appeal in forma pauperis. Attached hereto as exhibit A, B and C respectively are true and correct copies of Plaintiff's Motion and Declaration for Leave to Proceed In Forma Pauperis, Supplemental In Forma Pauperis Form for Prisoners and Plaintiff/Appellants trust fund account statement.

4.

To comply with the Federal Rule of Appellate Procedure 10, within 10 days of the filing of his Notice of Appeal, Plaintiff/Appellant hereby designates the matters which he wants included in the record on ~~appeal~~, to wit:

- a. The entire contents of the court's file, including all pleadings, motions and attachments;
- b. The transcriptions of the only two hearings in this matter conducted before the honorable, Magistrate Judge Felix Recio on January 16, 2003 and January 15, 2004.

5.

Wherefore Plaintiff/Appellant prays that he be granted leave to proceed on appeal in forma pauperis and that the matters requested herein be included in the record on appeal.

Respectfully submitted,



Barry R. Benton  
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Brownsville, Texas 78520  
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Federal I.D. No. 3968  
ATTORNEY IN CHARGE FOR  
PLAINTIFF/APPELLANT

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 8<sup>th</sup> day of December 2004, a copy of the foregoing First Amended Motion to Proceed in Forma Pauperis and Request for Items to be Included in the Record on Appeal was forwarded to counsel of record, to wit:

Ms. Nancy L. Masso  
United States Assistant Attorney  
600 E. Harrison Ave., No. 201  
Brownsville, Texas 78520

Via hand delivery

  
BARRY R. BENTON